
A Publication of the

NURSING HOME ADMINISTRATOR EXAMINING BOARD

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Secretary Marlene Cummings Retires

Secretary Marlene Cummings retired from state service on February 25, 2001. She had served with Governor Thompson since the beginning of his administration and was one of his first cabinet appointments.

Governor Thompson said Secretary Cummings has had an extremely successful tenure that emphasized changes in the handling of disciplinary complaints and adopted innovative disciplinary procedures. Her innovations have included an agency time-line for handling complaints, the use of mandated education and a procedure for managing professionals with drug and alcohol addictions.

Governor McCallum Appoints Herrera

Governor Scott McCallum announced on March 30, 2001, that he had appointed Oscar Herrera as the Secretary of the Department of Regulation and Licensing. Herrera has served sixteen years in state government including from 1999 to March 30, 2001, as the Director of the Bureau of Minority Business Development in the Department of Commerce. From

1992 to 1998 he was the Director of the Wisconsin Coastal Management Program in the Department of Administration, and from 1985 to 1991 worked as a program and planning analyst with the Coastal Management Program. He was twice awarded the Department of Administration's Exceptional Performance Award.

Herrera was born and raised in Mexico City. He obtained a Bachelor's degree in Economics from the National University of Mexico and a Master's degree in Agricultural Economics from the University of Chapingo in Mexico. He also attended the University of Wisconsin-Madison where he obtained a Master's degree in Continuing and Vocational Education and completed Doctoral studies (Ph.D.abd) in Development.

Statistics

As of April 10, 2001, there were 1,015 active nursing home administrator licensees in Wisconsin.

Legislative Update

At the request of the Nursing Home Administrator Examining Board, Representative Sheldon Wasserman has taken a leadership role in the introduction of 2001 Assembly Bill 207. This bill is the same as that introduced in the previous legislative session. It relates

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to the requirements for examinations for nursing home administrator licenses and for reciprocal nursing home administrator licenses and it grants additional rule-making authority to the board. Wisconsin is one of 14 states that do not require at least a bachelor's degree for licensure as a nursing home administrator. Other sponsors of the bill are Representatives DuWayne Johnsrud, Frank Urban, Terese Berceau, Pedro Colon, Eugene Hahn, John La Fave, Mark Pettis, John Ryba and Robert Turner. This bill is cosponsored by Senators Rodney Moen, Alberta Darling, Jon Erpenbach and Peggy Rosenzweig. Board member, Jerry Schallock, testified in support of the bill at a hearing on April 5, 2001.

Note the following Web site for a copy of the bill: <http://www.legis.state.wi.us/2001/data/AB-207.pdf>

Important Message From the Department of Workforce Development

Failure to pay court-ordered child support may result in the suspension or non-renewal of professional licenses.

Recently enacted Wisconsin laws give local child support agencies the ability to request suspension or denial of licenses of people whose names appear on the Child Support Lien Docket and who owe more than \$1,000 or three months' worth of child support.

Past-due child support creates a lien against all of a payer's titled property. The lien is entered into Wisconsin's Child Support Lien Docket when past-due support reaches a specified threshold. In January 2001, the threshold amount was \$20,000 in past-due support.

Child support agencies will notify payers at the time their names are added to the Child Support Lien Docket and prior to initiating license suspension action. Satisfaction (payment in full) of the child support lien, or entering into and complying with a plan to pay off the past-due support, will halt license suspension action.

For more information about Child Support Liens and license suspension, please contact your local child support agency.

Caregiver Background Checks

The Nursing Home Administrator Examining Board, staff of the Department of Regulation and Licensing (R&L) and staff of the Department of Health and Family Services have had several meetings to clarify the procedures for sharing information between the two departments, so that you will receive complete and accurate information when you conduct caregiver background checks. R&L staff concluded at one of the meetings that R&L's automated complaint tracking system (CTS) needs to be refined so that it will automatically identify credential holders who have been found to have violated caregiver laws. There was

a discussion of R&L's electronic search results portion of the automated Response to Caregiver Background Check form used by DHFS, R&L and the Wisconsin Department of Justice (DOJ). This form is a part of the caregiver background check process. At the present time, the R&L portion of that form shows the status of the person's credential, license or certificate and whether the person is eligible to practice the profession or occupation, but it shows nothing about whether there has been a caregiver violation

Following the discussions at these meetings it was concluded that R&L staff should review the Integrated Background Information System (IBIS) background check form to determine how to better identify caregiver law violators who are credential holders of R&L or its attached regulatory authorities.

Hopefully, we will be able to improve on the information provided to you when you conduct caregiver checks.

New Workplace Employment Posting Required

A workplace employment posting is now required in Wisconsin work sites employing health care workers. A new Wisconsin law effective June 1, 2000, creates specific employment protection from retaliation for health care workers who report violations of state or federal laws, rules or regulations to enforcement authorities. Further, the retaliation protection extends to health care workers who report situations in which standards of care, based upon either law or professionally recognized accrediting standards, are violated in a way that poses a potential risk to public health or safety.

Work sites required to display the posting include: hospitals, nursing homes, community-based residential facilities, and county operated health care facilities. Further, dentists, psychologists, social workers, marriage and family therapists and other professional counselors, optometrists and chiropractic offices are covered by the posting requirement. Pharmacies, hospices and home health agencies, and emergency medical first responders also must display the posting. Failure of a covered employer to post the required posting will result in a \$100 forfeiture for each offense. Further, covered employers are required to inform their employees of the rights and remedies available to them under the new law, 1999 Wisconsin Act 176.

The board thanks John Metcalf of the Wisconsin Manufacturers and Commerce for permission to print the above two paragraphs. You will find the law on the Web at: <http://www.legis.state.wi.us/1999/data/acts/99Act176.pdf> and you will find the required posting at: <https://www.dwd.state.wi.us/dwd/Posters/ERD12210.pdf>

Revision of HFS 132

The Department of Health and Family Services continues to work on the revision of HFS 132, relating to nursing homes. Hearings will be held later this year. The Nursing Home Administrator Examining Board has a keen interest in this revision, because the state portion of the licensing examination contains many questions that are based on this chapter of the rules. Naturally, when the new rules become effective, we will have to revise those questions that are affected by the changes. We are fully prepared to do that.

Mostly Frequently Cited Regulations

The Department of Health and Family Services recently published a document that listed the 10 most frequently cited regulations in Wisconsin during 2000. The numbers in parentheses show the percentage of facilities that were cited.

- F309 Care Promotes Highest Level Of Functioning And Well Being (33.2%)
- F272 Resident Assessment (31.7%)
- F324 Supervision to Prevent Accidents (24.1%)
- F225 Investigate Allegations of Abuse (16.9%)
- F221 Restraints (15.6%)
- F314 Prevention of Pressure Sores (13.9%)
- F514 Documentation (13.6%)
- F323 Environment is Free of Hazards (12.6%)
- F157 Contact Physician After Significant Condition Change (12.3%)
- F329 Free From Unnecessary Drugs (12.3%)

Scope Statement For Possible Rule Revisions

The Nursing Home Administrator Examining Board gives notice, pursuant to s. 227.135, Stats., that it proposes to amend administrative rules relating to the regulation of nursing home administrators.

Objective: The board intends to make 3 substantive changes, relating to conduct that may warrant a suspension or revocation, and relating to a 60-day deadline for applying for the licensing examination. The board also intends to make 5 technical changes, relating to correcting addresses in notes following substantive rule provisions, correcting a citation in a rule, and correcting a term used in the rules.

Policy Analysis: One of the substantive changes will be to create a rule that defines the phrase “a pattern of serious violations of federal or state statutes, rules or regulations.” This phrase is in s. 456.10 (1) (d), Stats., which was created in 1997 Wisconsin Act 237. The examining board has given guidance to the department’s enforcement staff regarding the board’s interpretation of this phrase; however, the board now intends to define the phrase in the rules.

Another substantive change would eliminate the 60-calendar-day filing deadline for the nursing home administrator licensing examination.

Another substantive change would be to include under s. NHA 5.02, Unprofessional Conduct, providing false information to the board by a nursing home administrator.

Two of the technical changes would correct the name and address of the NAB, as provided in notes following ss. NHA 1.02 (3) and 3.03.

Another technical change would correct the address of the American College of Health Care Administrators in the note following s. NHA 4.03 (1).

Another technical change would correct the citation in s. NHA 4.01 (1) (d) from s. NHA 2.02 (1) (a) to s. NHA 2.02 (1).

A final technical change would change “continuing education credits” to “continuing education hours,” as used in s. NHA 3.02 (5).

A “pattern” would be defined as more than one occurrence in three years. “Serious violations of federal or state statutes” would be defined as state level A violations or federal violations at level H or higher. [Editor’s Note: This paragraph is a direct quote from the scope statement; however, the actual language of the rule is still being developed.]

The 60-calendar-day examination filing deadline would be eliminated, because the national and state portions of the licensing examination are now administered by a professional testing agency on a weekly basis by computer.

By including under “unprofessional conduct” the provision of false information to the board by a nursing home administrator, the board will have clear authority to take appropriate action against the license of the nursing home administrator.

Statutory Authority: Sections 15.08(5)(b), 227.11(2), 456.02, 456.04 and 456.10, Stats.

Proposed Fee Revisions in Budget Bill

The Biennial Budget Bill, introduced as 2001 SB 55 and 2001 AB 144, proposes an increase in original registration fees for all occupations and professions licensed by the Department from \$44 to \$56. There are indications that this fee will be reduced to \$53. The proposed renewal fee for nursing home administrators would be increased from \$111 to \$120.

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The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is: **(608) 266-5511**

After dialing this number you are asked to press various menu choices. For the following requests, please press numbers as noted:

Application Forms	Press 11
Complaints Against Licensees	Press 12
Whether a Person is Licensed	Press 442
Application Processing & Requirements	Press 42
FAX Number	608-267-3816

Board Meeting Dates

June 21, August 16, October 18, December 13
All meetings are held at 1400 E. Washington Ave., Madison, WI, and are open to the public and subject to cancellation without notice. Please call to confirm dates.

Visit the Department's Web Site

www.drl.state.wi.us

For our new "Online Verification of Credential Holders" click on the "Business and Professional License Lookup" button on the Department's home page.

Copies of the Regulatory Digest are on the Web.

Send comments to dorl@drl.state.wi.us

Verifications

Requests for verifications to other states must be in writing. The cost is \$10. Please make out check or money order to the Department of Regulation and Licensing.

Wisconsin Statutes and Code

Copies of the Nursing Home Administrator Examining Board's Statutes and Administrative Codes may be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated October 2000.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

SECTION 440.11, STATS., ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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